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office of the registrar of lobbyists

BRITISH COLUMBIA

Annual Report
2012 - 2013

O.R.L. office of the registrar of lobbyists BRITISH COLUMBIA

Transparent lobbying Accountable government

Office of the Registrar of Lobbyists
for British Columbia
PO Box 9038, Stn. Prov. Govt.
Victoria, BC
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August 2013

The Honourable Linda Reid
Speaker of the Legislative Assembly of British Columbia
Room 207, Parliament Buildings
Victoria, BC V8V 1X4

Honourable Speaker:

In accordance with s. 9.1(1) of the *Lobbyists Registration Act*, I have the honour to present the Office of the Registrar of Lobbyists Annual Report to the Legislative Assembly.

This report covers the period from April 1, 2012 to March 31, 2013.

Yours sincerely,

Elizabeth Denham

Registrar of Lobbyists for British Columbia

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registrar's message

Amendments to the B.C. *Lobbyists Registration Act* (LRA), which came into force in April 2010, expanded the powers of the Registrar to enforce the Act, ushering in a new regime for lobby regulation in B.C.

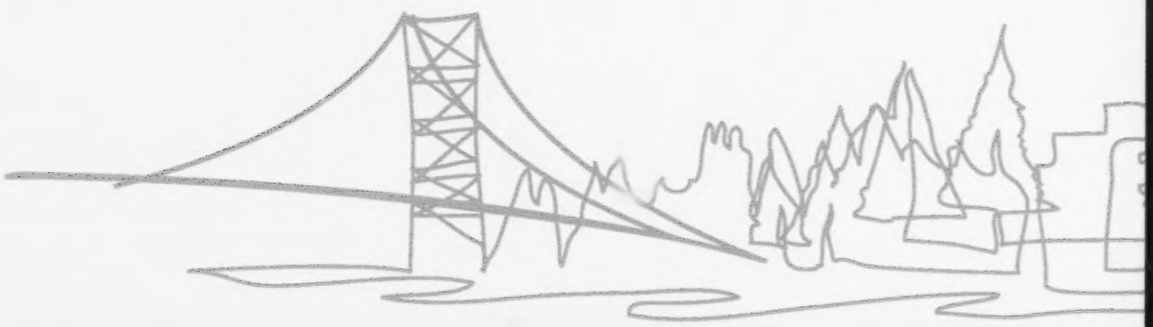
At the same time, the ORL also launched an online lobbyists registry, beginning a new era of transparency in several aspects of government decision-making. For the first time, B.C. citizens could search the registry and see who was lobbying which public officials regarding what issues.

Since then, there has been a groundswell of public calls for an increase in government transparency, and the Government of B.C. responded by announcing in 2011 that open government was a top priority. It launched two new websites to make more information available to the public: an open information site where citizens can view ministers' and deputy ministers' travel expenses and documents that have been released through freedom of information requests; and an open data site where people can download government datasets. These developments add value to citizen engagement, and enhance access to information in some respects, but cannot completely address the need for public scrutiny and political accountability.

As the Registrar of Lobbyists, my mandate is to support greater transparency in lobbying and more accountability in government decision-making. The ORL takes a multifaceted approach to fulfilling that mandate. We employ a range of tools to support our goals, from education to promote compliance through enforcement tools such as administrative penalties, when necessary.

The ORL made good progress in advancing our goals over the past year. A powerful method of promoting compliance is through public education, and I was pleased to co-host, with Simon Fraser University's Institute of Governance Studies, a second conference on lobbying in British Columbia. We had a great turnout again this year and a very positive response from attendees to the conference, which focussed on best practices for effective lobbying that is also legally compliant.

I was also pleased by the broad participation in our public consultation on the current regulatory regime for lobbying in B.C. We asked whether an enforceable code of conduct for lobbyists might increase compliance, and we heard from those in the lobbying community,



industry associations, public office holders and civil society observers, all of whom responded generously to our request for feedback. In the end, I found that an enforceable code of conduct for lobbying would not serve the public interest at this time.

Still, there is room for improvement in lobbying regulation in B.C. In the three years since my appointment, it has become clear that the 2010 amendments to the Act were a good start, but we need to do more to increase compliance and enhance transparency. To that end, I issued a report in January making a number of recommendations for reform.

One central recommendation of my report is to remove the requirement that lobbyists report whom they expect to lobby and instead report whom they actually lobby. Many MLAs we spoke with during our consultation were surprised to learn that they had been named as targets of lobbying efforts hundreds of times, sometimes by people they may not have met. The legislative provision requiring lobbyists to register possible future lobbying does not provide the same level of transparency as registering actual lobbying. I look forward to working with government in the coming months to achieve our shared goal of making information about government more available to the citizens of B.C.

I would like to acknowledge my staff for their dedication to public service and our stakeholders in the academic, civil society and lobbying communities for their continued participation in our initiatives. I look forward in the coming year to continuing the good work of helping British Columbians access information about who is influencing government.

Sincerely

Elizabeth Denham
Registrar of Lobbyists for British Columbia

highlights 2012-2013

PUBLIC CONSULTATION

The Office of the Registrar of Lobbyists carried out an extensive public consultation in 2012 regarding the current lobbying regulatory regime in B.C.

RECOMMENDATIONS FOR LEGISLATIVE REFORM

As a result of the public consultation, in January of 2013, we published a proactive report recommending reforms to the *Lobbyists Registration Act*.

SECOND CONFERENCE ON LOBBYING

The Office of the Registrar of Lobbyists and Simon Fraser University's Institute of Governance Studies co-hosted B.C's second conference on lobbying, "Growth and Evolution: Second Seminar on Lobbying in B.C."

INFORMAL RESOLUTION OF COMPLIANCE REVIEWS

Office of the Registrar of Lobbyists staff resolved approximately 80% of compliance reviews informally during the 2012-2013 year.

INCREASE IN LOBBYIST REGISTRATIONS

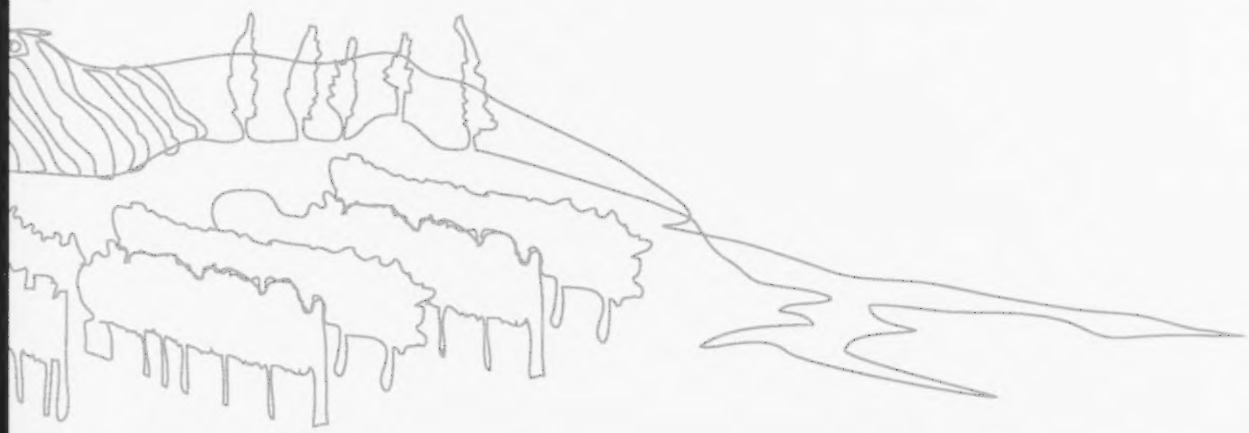
Both consultant lobbyist and organization lobbyist registrations increased over registration numbers in the 2011-2012 fiscal year.

recommendations for reforms to the LRA

Since the *Lobbyists Registration Act* (LRA) came into force in 2010, experience has suggested ways it could be amended to achieve greater transparency and greater compliance with its provisions. Our research and analysis, including the stakeholder feedback we received during a public consultation we conducted in 2012, led Registrar Denham to make a number of recommendations for legislative reforms aimed at enhancing transparency and streamlining the current regulatory regime for lobbying in B.C.

The recommendations of the Registrar's report include:

- Remove the requirement for designated filers to list on their registrations who they "expect to lobby," and replace it with the requirement that designated filers list who they have actually lobbied, within a reasonable length of time after the lobbying takes place;
- Rationalize registration thresholds for consultant lobbyists and organizations that lobby to streamline registration processes and improve the transparency of data on the B.C. Lobbyists Registry.
- Require designated filers to identify other persons or organizations that control or direct the lobbying activities and/or have a direct interest in the outcome of the lobbying, including agencies that fund or direct the activities of an organization or client represented in a lobbying effort.
- Adopt a provision that the LRA be subject to a scheduled, periodic mandatory review.



strategic goals

The LRA defines "lobbying" narrowly as communicating, for pay, with a public office holder in an attempt to influence a limited number of outcomes.

The object of the Act is to provide greater transparency regarding who is attempting to influence government decisions. The Act does not, and is not meant to, capture communication between private citizens and government officials regarding matters of personal concern.

The Office of the Registrar of Lobbyists (ORL) developed the following strategic goals for 2012-2013. These goals aim at achieving greater compliance with lobbying legislation to support the underlying goal of enhancing transparency in government decision-making.

GOAL 1: PROMOTE GREATER COMPLIANCE WITH THE LRA THROUGH EDUCATION AND OUTREACH

Public education and stakeholder outreach remain vital components in our strategy for achieving compliance with the LRA. We communicate with our stakeholders, including members of the lobbying community, public office holders and members of the general public, to raise awareness of the aims and provisions of the *Lobbyists Registration Act* and of the B.C. Lobbyists Registry.

CONSULTATION

Between March and September of 2012, the ORL devoted a substantial effort to carrying out a public consultation regarding the current regulatory regime for lobbying in B.C. Throughout our extensive conversations, we had a dual aim: to increase awareness of the LRA and its provisions and to hear from stakeholders how we might achieve greater compliance with the law and enhance the goal of increasing transparency in government decision-making.

Following complaints from the public about possible unethical practices in lobbying, we began a consultation to determine whether B.C. might benefit from adopting an enforceable lobbyists' code of conduct to strengthen lobbyist regulation. ORL staff met with a wide range of stakeholders individually or in small discussion groups and collected submissions from industry associations, civil society groups and academic observers.

Registrar Denham tabled her report on the consultation in the Legislature in January 2013. The report, *Lobbying in B.C.: The Way Forward*, concluded that the majority of lobbyists in B.C. conduct themselves in a professional and ethical manner, and that implementing an enforceable code of conduct for lobbyists at this time would not serve the public interest. However, based on feedback stakeholders offered during the consultation, the Registrar made a number of recommendations for legislative reforms to support increased transparency in lobbying and government decision-making in B.C. We describe these in more detail later in this report.

MEETINGS AND PRESENTATIONS

In addition to meetings carried out as part of the public consultation, the Deputy Registrar spoke on lobbying and lobby regulation in B.C., at the following meetings in 2012-2013:

- United Way Public Policy School, April 2012
- Annual meeting of Lobbyist Registrars and Commissioners, September 2012
- Meeting of the Official Opposition Caucus, July 2012
- Centre for Organizational Governance in Agriculture meeting, January 2013

CONFERENCE ON LOBBYING

The ORL partnered a second time with Simon Fraser University's Institute of Governance Studies to present "Growth and Evolution: Second Seminar on Lobbying in B.C." The focus of this year's meeting was on professional evolution of the lobbying industry in B.C., and reforming lobby regulation.

The conference offered a range of sessions on topics including: advice from public office holders and industry leaders on practices in lobbying that effectively deliver the message to decision-makers and conform to current lobbying laws; information about current efforts to develop a provincial-level industry association; and a discussion of the Registrar's recommendations for legislative reforms to streamline registration processes and further enhance lobbying transparency in B.C.

PUBLICATION

The ORL publishes an e-journal three times yearly. *Influencing BC* is a forum for discussion of a wide variety of issues connected to lobbying. Through guest authors, it brings together a range of opinion on lobbying and lobby regulation to help build a policy community and encourage stakeholder dialogue.

To the best of our knowledge, *Influencing BC* is the only journal of its kind that fosters multi-stakeholder commentary on lobbying and lobbying issues.

GOAL 2: MONITOR LOBBYING ACTIVITY AND ENFORCE THE *LOBBYISTS REGISTRATION ACT*

Beyond education and outreach, the Registrar has a suite of compliance tools with which to enforce the law.

COMPLIANCE PRINCIPLES

The following principles inform the ORL compliance strategy:

- The purpose of the LRA is to enhance transparency in lobbying;
- Lobbying in British Columbia must comply with current legislation and regulations;
- The ORL uses cost-effective and non-punitive methods to resolve minor matters of non-compliance whenever possible, including informal resolutions such as education and warnings;
- The ORL shall carry out enforcement activities in a fair, objective, respectful and consistent manner;
- Educating the public about the existence and uses of the public lobbyist registry is important in achieving the policy objective of transparency;
- Ongoing dialogue with the stakeholder community (consultant lobbyists, organizations, public office holders, fellow oversight agencies and the public) is essential to ensuring compliance strategies remain timely, cost-efficient and effective; and
- Effective compliance and enforcement is a mix of interrelated and coordinated approaches.

COMPLIANCE ACTIVITIES

ORL staff monitor lobbying activities and identify possible non-compliance with the LRA in several ways. The ORL conducts environmental scans to identify possible unregistered lobbying activities. The office also receives information about possible non-compliance from the public; although the LRA does not contain a formal complaint process, the Registrar has the discretion to make inquiries on the basis of complaints from the public, and sometimes does so. Additionally, the electronic Lobbyists Registry has built-in monitoring capabilities, which automatically check registrations for certain types of non-compliance.

Staff members review information about possible non-compliance and might conduct further inquiries. If a compliance review suggests that an individual or organization has contravened the LRA, ORL staff make an informed decision regarding how the case might be resolved. Some cases are resolved through informal measures, such as public education regarding the nature of registerable activities. In more serious cases, the matter proceeds to a formal investigation and might result in more stringent enforcement.

If a formal investigation confirms that there has been a breach of the law or related regulations, the ORL will administer a proportionate administrative penalty of up to $25,000.00. In such a case, the Registrar has the statutory obligation to make a public report of her findings and conclusions in the case by tabling a report of the investigation with the Speaker of the Legislative Assembly.

the year in numbers

COMPLIANCE STATISTICS

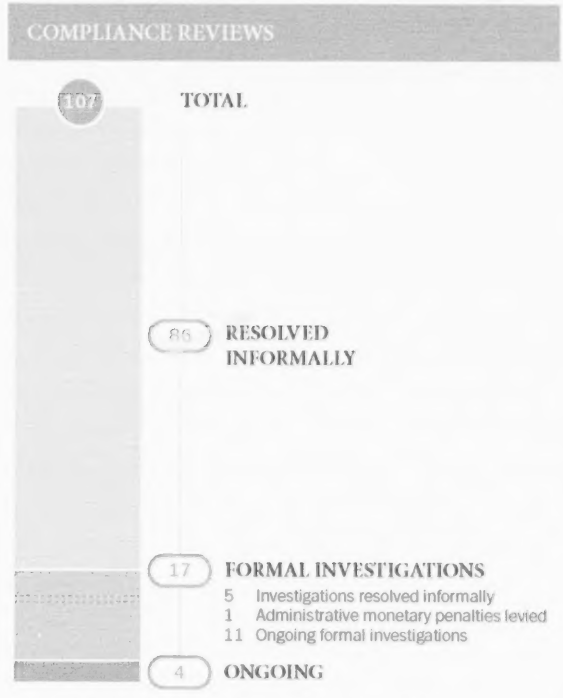
Figure 1 summarizes ORL compliance statistics for 2012-2013. Through informal means such as public education and warnings, ORL staff resolved 86 of the 107 compliance reviews carried out. Because they are less punitive and more cost-effective, the ORL aims to use informal means to resolve possible non-compliance whenever they are appropriate and effective.

ORL staff review and verify registrations when they are submitted to the online Lobbyists Registry. When filers submit registrations containing inaccurate, incomplete or inexact information that can obscure transparency in the Registry, ORL staff request that filers make appropriate corrections.

Under LRA Regulations, if filers submit requested corrections within 10 business days, the registration is considered to have been received on the date the return was originally submitted. If they do not submit them within 10 business days, the corrected return is considered to be received when the last correction is received. Therefore, if filers submit an original registration return on time, but do not submit requested corrections within 10 business days, they might be deemed to have submitted late registrations, and be subject to investigation and a possible administrative penalty.

In August of 2011, ORL staff began compiling data on requested corrections. Between August 2011 and March 31, 2012, ORL staff requested that 248 filers correct registration returns. Between April 1, 2012 and March 31, 2013, ORL staff requested that 325 filers correct registration returns.

FIGURE I: COMPLIANCE STATISTICS, 2012-2013



ACTIVE REGISTRATIONS

The law stipulates that "designated filers" are responsible for registering all persons who should be registered. The LRA recognizes two types of lobbyists, consultant lobbyists, individuals who are hired to represent clients (in an "undertaking") and in-house lobbyists, employees of organizations who lobby on behalf of their organization.

Under the LRA, there are different requirements for registration by consultant lobbyists and organizations that lobby. Consultant lobbyists are their own designated filers and must register themselves within 10 days of entering into an undertaking, whether any lobbying has taken place or not. Consultant lobbyists' registrations are ongoing, showing the entire history of the undertaking, and remain active until 30 days after the end date entered by the consultant lobbyist. After that, the registration will show on the Lobbyists Registry as "terminated."

The designated filer for an organization is the most senior officer in the organization who is paid for his or her work. Organizations' designated filers register on behalf of their organizations, listing as in-house lobbyists all staff members who contribute significantly to the lobbying effort. Organizations are required to register when the collective lobbying efforts of staff members reach 100 hours in the previous 12 months. Thereafter, organizations are required to re-register every six months, if they continue to lobby and meet the 100 hours threshold. Previous registrations are automatically terminated by the registry system, whether an organization re-registers or not. Therefore, organizations' registrations are not a continuous record of the lobbying activities of organizations. Previous, expired registrations will show on the B.C. Lobbyists Registry as "terminated."

"Active registrations" means all the registrations that were active at some point during the 2012-2013 fiscal year. This includes registrations that began before the year started and continued into or through the year, as well as those that began during the year.

FIGURE 2: ACTIVE REGISTRATIONS – 2011-2012 AND 2012-2013

Figure 2 shows increases in all three categories over the past year. The number of registrations by consultant lobbyists increased by 9%, the number of organizations that registered increased by 1% and the number of in-house lobbyists employed by organizations increased by 7%.

REGISTRATION DETAILS, 2012-2013

To support the goal of transparency, registrants on the B.C. Lobbyists Registry are required to report who they lobby, on what subject matters, and with what intended outcomes.

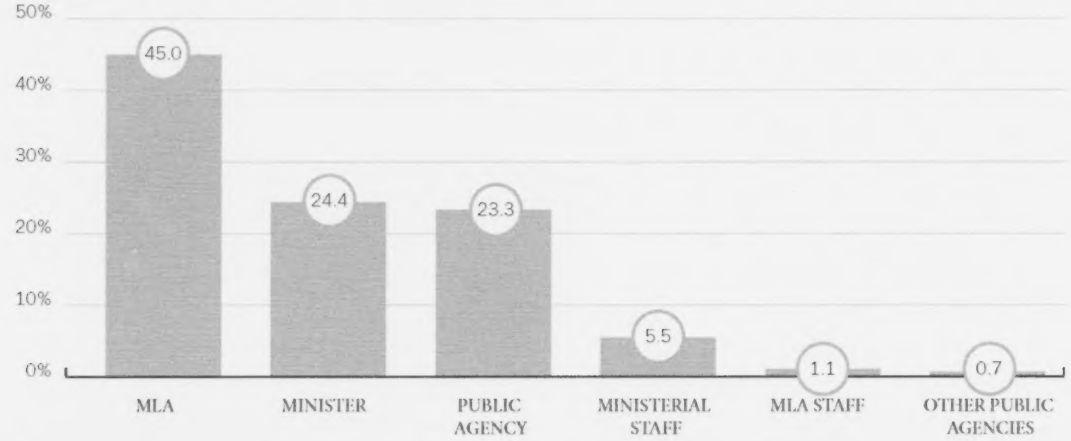
LOBBYING TARGETS

- A "lobbying target" is a public office holder who is "targeted" in a lobbying effort. When lobbyists register, they choose the target(s) for their lobbying from options presented in a drop-down menu. Options include the following:
- "Members of the Legislative Assembly";
- "Ministers";
- "Public Agencies," which include ministries, crown corporations, commissions, health authorities, post-secondary institutions, administrative tribunals, and various other non-government public bodies;
- "Ministerial Staff," which includes those staff members who work in the office of a Cabinet Minister;
- "MLA Staff," which includes those staff members who work in an MLA's constituency office; and
- "Other Public Agencies," which include public agencies that have not been captured in the drop-down list. These are added to the online registration form by registrants.

The following chart summarizes the lobbying targets listed by registrants during the 2012-2013 fiscal year, shown as a percentage of the total number of targets.

Almost half of the lobbying targets were Members of the Legislative Assembly. Ministers and Public Agencies each comprise slightly under one-quarter of the total. These three together make up 93% of all lobbying targets listed.

FIGURE 3: LOBBYING TARGETS



Although these numbers accurately reflect data entered by registrants, they may not accurately reflect actual lobbying activities. Because the LRA requires that a registration provide details of whom the lobbyist "has lobbied or expects to lobby," the numbers may represent both actual lobbying that has occurred as designated filers register, as well as their "best guesses" for who they might lobby while their registration remains active. Some designated filers prefer to choose all MLAs or all cabinet ministers as potential lobbying targets, to "cover the bases." In the interests of enhancing the transparency of data in the B.C. Lobbyists Registry, ORL staff encourage designated filers to interpret "expect to lobby" narrowly to mean "to regard as likely to happen," rather than "might happen," and to avoid choosing lengthy lists of hypothetical lobbying targets.

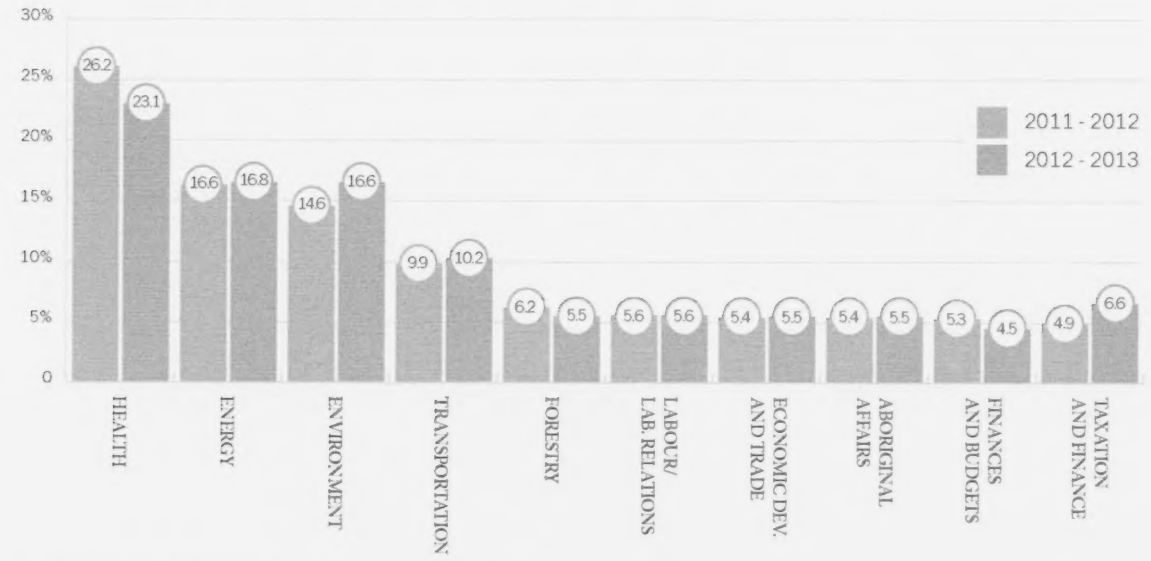
SUBJECT MATTERS

Registrants choose lobbying subject matters from a drop-down menu that lists common issues on which public office holders are lobbied, such as education, economic development, transportation, and others. When designated filers register, they choose the appropriate subject matter for that registration. For example, the registration of an environmental awareness group is likely to choose "Environment" as the subject matter of the lobbying effort.

Figure 4 shows the ten subject matters chosen most often in 2011-2012 and 2012-2013.

As the chart indicates, lobbying subject matters have remained strikingly similar over the past two years. The top three subject matters for 2012-2013—health, energy and the environment— comprise over half of lobbying subject matters, or 57.3%. In 2011-2012, those same subject matters comprised 56.5% of all subject matters chosen throughout the year.

FIGURE 4: LOBBYING SUBJECT MATTERS, 2011-2012 AND 2012-2013



INTENDED OUTCOMES

"Intended Outcomes" are the results that lobbyists hope to achieve through the lobbying effort. These are also chosen from a list in a drop-down menu. The list of intended outcomes is drawn from the definition of lobbying in the LRA, and so reflects the legal definition of lobbying, in contrast to other activities that resemble it, such as citizen advocacy, for example.

Table 1 compares the intended outcomes identified by registered lobbyists in 2011-2012 and 2012-2013.

TABLE 1: INTENDED OUTCOMES OF LOBBYING

	2012-2013		2011-2012	
INTENDED OUTCOME	# Instances	% Total	# Instances	% Total
Arranging meeting between an individual and a public office holder for purpose of lobbying (Consultant lobbyist only)	2,251	33.6%	2,430	36.1%
Development, establishment, amendment or termination of any program, policy or decision	2,248	33.5%	2,251	33.4%
Introduction, modification or repeal of legislation, a bill or regulation	1,216	18.2%	1,135	16.9%
Arranging meeting between an individual and a public office holder (In-house lobbyist only)	567	8.5%	511	7.6%
Awarding, amendment or termination of a contract, grant or financial benefit	379	5.7%	313	4.7%
Decision of cabinet to transfer interest in a government enterprise or privatize services	34	0.5%	90	1.3%
Total:	**6695**	**100%**	**6730**	**100%**

Intended outcomes listed by registrants also remained similar across the last two years. In both cases, the top three intended outcomes comprise a large majority of outcomes chosen by registrants. In 2011-2012, these three made up 86.4% of the total; in 2012-2013, the same outcomes make up 85.3% of the total.

financial reporting

The LRA designates the Information and Privacy Commissioner as the Registrar of Lobbyists.

The budget of the ORL is incorporated as part of the budget of the Office of the Information and Privacy Commissioner (OIPC). As part of the approval of the annual Estimates, the Legislative Assembly votes a budget for the two offices as recommended by the Select Standing Committee on Finance and Government Services.

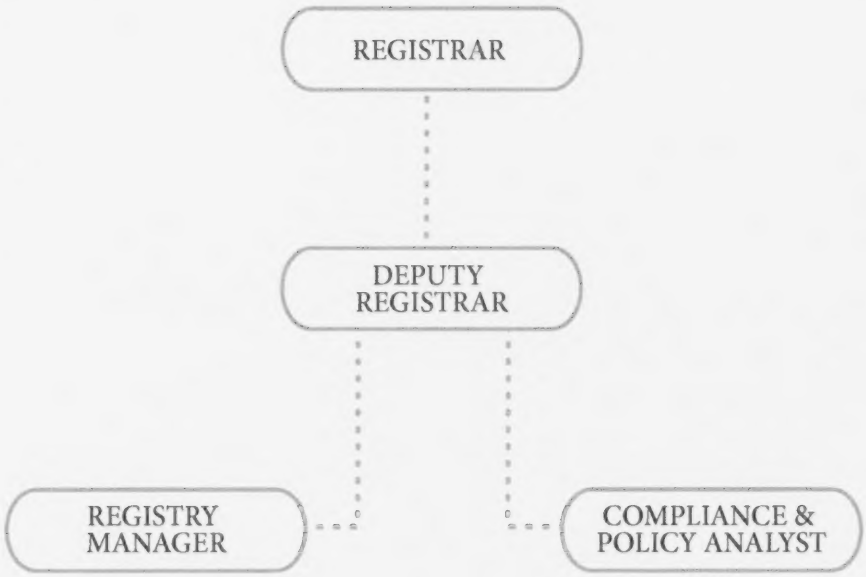
Table 2 summarizes the portion of the OIPC appropriation approved by the Registrar for the ORL's operating expenses for the 2012-2013 fiscal year. The ORL does not have a separate allocation for capital expenditures.

TABLE 2: ORL BUDGET FOR 2012-2013

Total appropriation allocated to ORL	$600,000.00
Total operating expenses	$555,000.00
Unused appropriation	**$45,000.00**

For more information, please see the OIPC Annual Report and Budget and Service Plan at **www.oipc.bc.ca.** under the Reports tab.

organizational chart



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